



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

should be introduced to enlighten the judicial mind. The abuse of power depends on facts, which can be determined as well as any other facts. Only by this means can adequate protection be extended to newly discovered industries, and a line of decisions, unsound in the light of later experience, be avoided by the courts.

THE IMMUNITY OF GOVERNMENT VESSELS FROM ARREST. — It is well established law that, speaking generally, the vessels of a foreign government in the hands of that government's servants are not liable to arrest.¹ The courts have arrived at this result, first, by saying that it would be inconsistent with the nature of sovereignty, if the foreign government were to be deprived of its own property by its own courts. On principles of international courtesy, courts of one jurisdiction should extend this immunity to vessels of another jurisdiction. This reasoning, of course, covers and settles the case where a government vessel is sought to be libelled in the local jurisdiction. It has, accordingly, been assumed that a vessel in this latter case would not be liable to arrest. Two very great authorities, however, have thought that this immunity of government vessels should extend only to those vessels employed in services of an essentially public nature, such as warships and vessels of the revenue service. Sir Robert Phillimore argued that when the ship of a sovereign is engaged in private ventures, the immunity should be regarded as waived.² Mr. Justice Story was of opinion that, since the owner in these cases may not be impleaded, there is the greater reason for allowing the action against the ship;³ a reason, however, which seems to apply equally well to the case of a vessel in public service.

The Judicial Committee of the Privy Council has just had occasion to pass upon these questions. A ferryboat, which they regarded as the property of the crown in the hands of its servants, destined for service in the operation of a government railway, being disabled on the high seas, was towed into port. Their Lordships were of opinion that she could not be libelled for salvage, both because she belonged to the crown, and because it would necessarily implead the sovereign. *Young v. Steamship Scotia*, 89 L. T. 374. Waiving any discussion of this second ground, this important case would seem to go far towards settling the law in opposition to the opinions of Phillimore and Story. It is submitted that the position taken by the court is a sound one. The difficulty with the opposite view is jurisdictional, existing in the nature of things. To take property of the government out of its possession is a derogation of its sovereign rights. This derogation is not lessened by holding that the government has waived its immunity, when as a matter of fact it appears by its proper officer and declares that it has not. The argument of Mr. Justice Story does not even attempt to meet this difficulty. Nor are the practical advantages entirely with him. If a government ferryboat can be arrested, so can a government mail wagon. In view of the increasing participation by the government in private industries, convenience as well as principle seems to demand that the immunity be preserved.

¹ The Exchange, 7 Cranch (U. S.) 116.

² See *The Charkieh*, L. R. 4 A. & E. 59.

³ See *U. S. v. Wilder*, 3 Sumn. (U. S. C. C.) 308.